Commission Delegated Regulation (EU) 2019/693 of 7 February 2019 amending Delegated Regulation (EU) No 481/2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes

COMMISSION DELEGATED REGULATION (EU) 2019/693

of 7 February 2019

amending Delegated Regulation (EU) No 481/2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal[(1)], and in particular Article 18(1) thereof,

Whereas:

(1) Article 3 of Commission Delegated Regulation (EU) No 481/2014[(2)] sets out specific rules on eligibility of staff costs for cooperation programmes. That provision refers to Articles 67 and 68 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council[(3)] on eligibility and simplified cost options. Those Articles, as amended by Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[(4)], as well as Article 68a of Regulation (EU) No 1303/2013, as introduced by Regulation (EU, Euratom) 2018/1046, were restructured. The references to the provisions of Regulation (EU) No 1303/2013 and the structure of Article 3(3) to (5) of Delegated Regulation (EU) No 481/2014 should therefore be amended accordingly.

(2) Implementation of point (i) of Article 3(6) of Delegated Regulation (EU) No 481/2014 on one of the two methods to calculate an hourly rate for part-time assignments of staff with a flexible number of hours worked per month has proven difficult to apply in practice, in particular where the employment document does not fix the monthly working time, but the weekly working time. Point (i) of Article 3(6) of that Regulation should therefore be amended in order to calculate a single hourly rate based on the number of hours worked per month. That method should also take into account the differences between Member States and employment contracts with regard to annual leave and public holidays, as specified in the individual employment document, by law or agreements concluded by the social partners (employers and employees) on the level of the employer of a specific staff member or on the level of the relevant sector or at national level. This clarification should apply to the entire programming period in order to ensure a coherent set of rules, i.e. as of the date of entry into force of Delegated Regulation (EU) No 481/2014.

(3) In accordance with Article 149(3a) of Regulation (EU) No 1303/2013, the measures provided for in this Regulation have been subject to consultation of experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making[5].

(4) In order to ensure legal certainty and to limit discrepancies between the amended provisions of Regulation (EU) No 1303/2013 which apply from 2 August 2018 or earlier in accordance with Article 282 of Regulation (EU, Euratom) 2018/1046 and the provisions of this Regulation to a minimum, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(5) Delegated Regulation (EU) No 481/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3 of Delegated Regulation (EU) No 481/2014 is amended as follows:

(1) paragraph 3 is replaced by the following:

3. Staff costs may be reimbursed either:

(i) in accordance with point (a) of Article 67(1) of Regulation (EU) No 1303/2013 (as proven by the employment document and payslips); or

(ii) in the form of standard scales of unit costs in accordance with point (b) of Article 67(1), with paragraph (2), the first subparagraph of paragraph (3) and paragraph (4) of Article 68a of that Regulation; or

(iii) in the form of lump sums in accordance with point (c) of Article 67(1); or

(iv) in the form of flat-rate financing in accordance with point (d) of Article 67(1) and with Article 68a(1) of that Regulation.;

(2) point (a) of paragraph 4 is replaced by the following:

(a) a fixed percentage of the gross employment costs in accordance with Article 68a(5) of Regulation (EU) No 1303/2013; or;

(3) paragraph 5 is deleted;

(4) paragraph 6 is replaced by the following:

6. For part-time assignments under point (b) of paragraph 4, the reimbursement of staff costs shall be calculated on a single hourly rate basis determined either by:

(i) dividing the monthly gross employment cost by the average monthly working time expressed in hours taking into account the working time as fixed in the employment document as well as fixed by law or agreements between the social partners on the relevant level; or

(ii) dividing the latest documented annual gross employment cost by 1 720 hours.

The hourly rate shall be multiplied by the number of hours actually worked on the operation.